IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 4364 of 2006

Dated 22nd December, 2006

Between

The Fishermen Coop Society, Penchikal dinne, rep. By its

President, Y.Narsaiah

…Petitioner

and

The Commissioner of Fisheries,

Department of Fisheries, Hyderabad and ors.

…Respondent.

HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION No. 4364 OF 2006

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ORDER:

The petitioner, a Fishermen Cooperative Society in Penchikal Dinne village of Nalgonda District, through its President, has filed this Writ Petition seeking Writ of Mandamus, to declare notice No.1/MA.AA.AA/Tu/2006, dated 2-3-2006 issued by the fourth respondent-Fisheries Development Officer as illegal and arbitrary.

In the affidavit filed in support of the Writ Petition, it is stated that the petitioner-

society was registered in the year 1982 under the A.P. Cooperative Societies Act, 1964 and there are about 80 members in the society. Time to time, elections were being conducted to the Managing Committee and lastly elections were held and the term of the said committee expired on 23-03-2005. It is further stated that as per the by-laws of the society, the elected managing committee of the society had convened General Body Meeting on 20-03-2005 and elections were conducted to the Managing Committee and basing on the same, list of elected members was forwarded to the Deputy Director of Fisheries on 12-4-2005. However, in view of the representation filed by the fifth respondent, impugned notice dated 02-03-2006 is issued by the fourth respondent-Fisheries Development Officer. It is the case of the petitioner that as much as elections were already conducted by the committee, which was elected previously, in the General Body meeting held on 20-03-2005, there is no authority or jurisdiction for the respondents to conduct enquiry with regard to election dispute.

Counter affidavit is filed on behalf of the respondents 1 to 4, stating that there are two rival groups in the society and one group elected one Sri Y.Narsaiah as President and other group elected Sri N.Nagaiah as President. It is stated that there is confusion with regard to the groups having majority and elected as President of the society. As such, instructions were issued by the Deputy Director of Fisheries to the Assistant Director of Fisheries to call for General Body Meeting, decide and report compliance. It is further stated that impugned notice dated 2-3-2006 is issued to decide the dispute with regard to election and to finalize the majority for collection of lease amount.

Separate counter affidavit is filed by the fifth respondent-impleaded party stating that as much as elections were not conducted to the managing committee, he had taken initiative and convened general body meeting on 19-3-2005, in which he was elected as President apart from eight members as members of the managing committee of the society.

In the counter affidavit filed on behalf of the respondents 1 to 4, it is clearly stated that in view of the rival claim with regard to conduct of elections to the managing committee of the society, impugned notice is issued to conduct General Body meeting to ascertain majority. Under the scheme of A.P. Cooperative Societies Act, 1964 and rules made thereunder, in absence of any requisition by the society to conduct elections by an officer, there is no such power conferred on the Fisheries Development Officer or any other officer to conduct General Body meeting to ascertain majority. There is prescribed procedure to conduct elections under Rule 22 of the A.P. Cooperative Societies Rules, 1964. Though it is stated by the learned Counsel appearing for the respondents that impugned notice is issued only to verify the records with regard to elections conducted, but however, from the counter affidavit filed on behalf of the respondents 1 to 4, it is clear that all the elected members were asked to present, to ascertain the majority. Precisely it is nothing but conducting of elections to the society, which is without jurisdiction. As per the by-laws of the society also, the Managing Committee alone is competent to hold elections by convening General Body Meeting. In the counter affidavit filed by the fifth respondent, though it is his case that as much as the elected managing committee had not convened general body meeting, he himself had convened

general body meeting on 19-3-2005, but however, in the material papers filed by him, he had filed a copy of the representation, which was addressed to the Deputy Director of Fisheries, in which it was stated that general body meeting was convened on 24-2-2006, which shows discrepancy with regard to date mentioned in the counter affidavit to that of the date mentioned in the representation filed before the Deputy Director of Fisheries. Further, he did not show any authority either under the A.P. Cooperative Society Act, 1964 or by-laws of the society to hold elections on his own. In that view of the matter, the fifth respondent had no authority to convene General Body Meeting to hold elections. In any event, if there is any dispute with regard to election, which is stated to have been held on 19-03-2005, it is for the aggrieved party to question before the competent forum notified as per the provisions of the A.P. Cooperative Societies Act, 1964, and, on mere representation by the fifth respondent, either Assistant Director of Fisheries or Fisheries Development Officer has no authority or jurisdiction to decide election dispute. A reading of impugned notice coupled with counter affidavit, makes it clear that the said notice is issued to convene General Body Meeting to ascertain majority, which is, precisely, nothing but holding elections to the managing committee of the society. In that view of the matter, impugned notice dated 2-3-2006 is liable to be set aside. Accordingly, notice No.1/MA.AA.AA/Tu/2006, dated 2-3-2006 issued by the fourth respondent-Fisheries Development Officer is set aside.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATED: 22-12-2006.

Msnr